

DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-324

18 August 1980

MEMORANDUM FOR: Chairman, SECOM

FROM:

[REDACTED]
ES/SECOM

SUBJECT: Storage of APEX Nondisclosure Agreement

1. The issue of CIA providing a central repository for storage of the Nondisclosure Agreement has arisen again.

2. The Department of State has acquiesced and it looks like there will be a standard APEX NdA.

3. [REDACTED] is the CIA representative to one of [REDACTED] APEX Working Groups chaired by [REDACTED] of the AF (also the AF SECOM member). At a recent meeting everyone except NSA and CIA opted for CIA to provide the repository. [REDACTED] wants a statement of position.

4. I've repeatedly informed [REDACTED] that OS would not be equipped to do this with current resources. But I haven't told him how many resources it would take to make OS change its mind.

5. As close as I can figure, we are talking about holding up to 200,000 NdA within the first two years of APEX and adding to this at the rate of probably 5-10,000 per month (on the high side), 3-5,000 per month on the low side. Original paper would have to be stored for 70 years. While there may not be active interplay of this material, there would be a need for an organized file subject to access and document retrieval on reasonable notice.

6. Resource requirement for this task are computed to be 2 people at the clerk level (GS-5 or GS-6) for the first year and one GS-6 full time each year thereafter. Space requirements would be approximately 40 linear feet the first year and an additional 2 or 3 linear per year thereafter. Before the first copy could be destroyed (70 years from initiation date), the holdings will have grown to require more than 300 linear feet of space. The material is unclassified but will require protective storage against weather hazards and effects of time.

25X1A 7. [] continues to support the idea of central storage by CIA and I'm sure he will again seek your support and agreement to provide this service of common concern.

Shall we encourage? _____
or
Shall we discourage? _____



25X1A

Distribution:
Orig Return ES/SECOM
1 - C/SECOM

15 August 1980

MEMORANDUM FOR: Deputy Director of Security/CA

FROM: [REDACTED]
Chief, Special Security Center

SUBJECT: APEX Nondisclosure Agreements

1. The attached agenda for the 14 August 1980 Working Group One meeting contains an item on the Nondisclosure Agreement which generated substantial discussion and disagreement. Most of the agencies represented were strongly in favor of a central repository for all Nondisclosure Agreements, opposed to burdening the individual SIO's with this responsibility for which they have no resources.

2. [REDACTED] polled the attendees and found that all favored a central repository except NSA (which preferred to maintain its own Nondisclosure Agreements) and CIA, which abstained. [REDACTED] would appreciate a CIA position on a central repository for Nondisclosure Agreements--the point being that all other agencies (except NSA) would like to see CIA accept this responsibility to which I could not commit either OS or CIA.

3. I would appreciate guidance on this matter--even in the form of a memo from [REDACTED]--putting the Office on record as either accepting or declining to assume the role of Nondisclosure Agreement keeper for the community, and the concomitant resource impact such an acceptance would entail. The recent decision by National Archives that the Nondisclosure Agreement might have to be maintained for some seventy (70) years should also be considered.

[REDACTED]

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00 INSC

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02 APEX Nondisclosure Agreements (NDAs)

03

04

25X1A 05 [REDACTED]

06 Chairman, APEX Steering Group

07 Room 7E12, CIA HQ Building

08

09 1. During the 29 July 1980 meeting of the APEX Steering Group
10 you tasked Working Group No 1 with preparing a draft letter to the
11 NFIB SIOs on establishing repositories for the APEX Nondisclosure
12 Agreements (NDAs) in their respective departments and agencies and
13 specifying other related details.

14

15 2. A draft of such a letter is attached for your consideration.

16

17

18

25X1A 19 [REDACTED]

20 Chairman, APEX Working Group

21 Number 1

22

23

1 Atch

Draft ltr on APEX NDAs

D R A F T

MEMORANDUM FOR NATIONAL FOREIGN INTELLIGENCE BOARD

SUBJECT: APEX Nondisclosure Agreements (NDAs)

1. Subsequent to a need-to-know certification and favorable DCIP 1/14 adjudication, all persons must undergo a security indoctrination and execute a Nondisclosure Agreement (NDA) as a condition of access to APEX material. Subsequent access to compartments within the APEX system will be accompanied by security indoctrinations that will include a reminder of the original NDA and its obligation.

2. The NDAs will be distributed to the Intelligence Community in the near future together with instructions explaining its legal implications. Implementation of the APEX orientation process will then commence.

3. As the NDA basically constitutes a legal document reflecting the signer's willingness to adhere to its provisions as a condition of access to APEX information, its preservation is a matter of vital concern for possible prosecution and other purposes. We have been unable to obtain agreement on the concept of retaining the NDAs in a central repository. Accordingly, each NFIB SIO must establish policies and procedures for the retention of NDAs completed by persons under his/her APEX security cognizance.

4. The attached guidelines are provided to insure that the Intelligence Community has a uniform policy on the retention of APEX NDAs.

Attachment

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00 GUIDELINES FOR RETENTION AND HANDLING OF THE
01 APEX NONDISCLOSURE AGREEMENT (NDA)
02 AND RELATED ACTIONS
03
04

05 1. NDA Repository. Intelligence Community SIOs are responsible to
06 maintain a repository for all NDAs completed by persons authorized
07 APEX access under their APEX security cognizance. The NDAs should
08 be kept for 70 years or whatever period is subsequently prescribed
09 by proper legal authority. NDAs should be maintained in such a
10 format (e. g., alphabetical by year) so as to be easily retrieved
11 when required for legal or other purposes. The original signed
12 copy of the NDA must be retained in the repository unless it is
13 subsequently determined by proper legal authority that microfiche,
14 xerox, or other forms of the original NDA are sufficient for pro-
15 secution purposes. Copies of the original NDA may be prepared and
16 used elsewhere when needed for management, record keeping, or
17 other purposes.
18

19 2. Location of the Repository. The logical site for the repository
20 is in the Washington DC Metropolitan area--preferably in areas
21 controlled by the Intelligence Community SIO. This would facilitate
22 interplay with the "current access status" and "access history"
23 functions of the Community-wide, Computer-assisted, Compartmentation
24 Control (4C) System to be established under APEX.
25

26 3. Handling of NDAs:
27

28 a. Initial APEX Indoctrination. The original signed NDA should
29 be forwarded to the Intelligence Community SIO who authorized APEX
30 indoctrination. This SIO would be responsible for submitting re-
31 quired data to the 4C system (or interim pre-4C system) and then
32 retaining the NDA in its repository. IC SIOs may require a person
33 to aperiodically complete additional NDAs for record-keeping,
34 security, or other purposes. NDAs completed under these condi-
35 tions need not be kept in the repository and may be destroyed
36 when no longer needed.
37

38 b. Recording Individual APEX Access Categories. Each time a
39 person is authorized access to an individual APEX compartment,
40 subcompartment, product, or other APEX category, the fact will be
41 reported to the SIO authorizing access who will enter the data in
42 the 4C system. There is no need to record this access in the
43 Intelligence Community SIO's NDA repository.
44

45 c. Debriefings. When a person is debriefed in toto or is
46 removed from one or more APEX accesses, the Debriefing Certificate
47 (DC) must be forwarded to the SIO who authorized the access. This
48 SIO will enter the data into the 4C system and keep or destroy the
49 DC, as desired. The DC need not be retained in the repository.
50
51

00 d. Transfers Among Intelligence Community SIOs. Whenever a
01 person under the APEX security cognizance of one Intelligence
02 Community SIO is assigned (i. e., "in-status transfer, or change
03 of employment) to duties requiring APEX access under the cogni-
04 zance of another Intelligence Community SIO, the person will be
05 required to sign another NDA. This NDA will be retained and
06 handled by the gaining Intelligence Community SIO as outlined in
07 paragraphs 1 and 3a, above. This is to facilitate the processing
08 of security reviews and other matters which might arise as the
09 result of APEX access acquired as the result of duties with the
10 gaining Intelligence Community SIO.

11
12 e. APEX Access Subsequent to Debriefing. Whenever a person
13 is debriefed in toto and is again subsequently authorized APEX
14 access, another signed NDA must be accomplished and handled as
15 outlined in paragraphs 1 and 3a, above.

APEX STEERING GROUP
WORKING GROUP NUMBER ONE

8 August 1980

AGENDA
Meeting, Thursday, 14 August 1980, 1000 Hours
Room BD-951, Pentagon

- ITEM 1 Preliminary Comments
- ITEM 2 APEX Nondisclosure Agreement (NDA). (Please review the attached draft letter and be prepared to concur or provide alternate wording.)
- ITEM 3 APEX Briefing Guide. (Please review the attached draft letter and be prepared to concur or provide alternate wording.)
- ITEM 4 New business.

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Chairman, APEX Working Group
Number 1

- 2 Atchs
1. Draft ltr, APEX Non-disclosure Agreements (NDAs) w/Atch
 2. Draft ltr, APEX Briefing Guide w/Atch

DISTRIBUTION: See reverse

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25X1A	<div data-bbox="215 396 755 468" style="border: 1px solid black; height: 34px; width: 332px;"></div> <p>SAF/SS Room 4C-1000, The Pentagon Washington DC 20330</p>	<div data-bbox="956 405 1222 434" style="border: 1px solid black; height: 14px; width: 164px;"></div> <div data-bbox="956 434 1047 464" style="border: 1px solid black; height: 14px; width: 56px;"></div> Steering Group Staff Room 7E12. CIA HQ Bldg	25X1A 25X1A
25X1A	<div data-bbox="215 594 573 623" style="border: 1px solid black; height: 14px; width: 220px;"></div> <p>USASSG, OACSI, DA Room 2A-474 The Pentagon Washington DC 20310</p>	<div data-bbox="956 535 1469 594" style="border: 1px solid black; height: 28px; width: 316px;"></div> <p>Department of Justice Sp Scty Center, Room 6744 10th and Pennsylvania Ave, N. W. Washington, DC 20530</p>	25X1A
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25X1A	<div data-bbox="199 1140 747 1199" style="border: 1px solid black; height: 28px; width: 337px;"></div> <p>Defense Intelligence Agency (RSS-4B), Room 2A-520 The Pentagon Washington DC 20301</p>	<div data-bbox="956 1169 1401 1236" style="border: 1px solid black; height: 32px; width: 274px;"></div> <p>Department of the Navy Room 5B-663, The Pentagon Washington DC 20350</p>	25X1A

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02 APEX Briefing Guide

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06 Chairman, APEX Steering Group

07 Room 7E12, CIA HQ Building

08

09 1. You tasked Working Group No 1 with preparing a draft APEX
10 Briefing Guide based on preliminary guides submitted by the SECOM
11 (SECOM-D-246) and the DIA member of our group (my ltr, 14 Jul 80).

12

13 2. A draft of such a guide is attached for your consideration.
14 It is predominantly a "checklist" type guide as the group believes
15 this style would be more helpful to field activities. As noted in
16 paragraph 2 of my 14 July 1980 letter on this matter, APEX Program
17 Managers must supplement the attached guide with secondary briefings
18 on the various APEX compartments, subcompartments, and product
19 categories under their cognizance.

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24 Chairman, APEX Working Group

25 Number 1

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1 Atch

Draft APEX Briefing Guide

D R A F T

APEX BRIEFING GUIDE

FOREWORD

This guide is offered to assist personnel engaged in conducting personnel security briefings on matters within the purview of the APEX Special Access Control System.

The guide has been prepared in "checklist" format so that briefing officers can extract from it, in part or in whole, elements that satisfy their unique requirements within full applicability of the need-to-know concept.

There are certain core concepts which must be incorporated in all briefings:

a. The individual must be told what he is to protect.

b. The individual must be told how he is expected to protect the information and those procedures must be explained to him in understandable terms to his acknowledged satisfaction.

c. The individual must sign a Nondisclosure Agreement (NDA) and have explained to his satisfaction what the conditions of that agreement are.

No predetermined word pattern can be offered to satisfy all perceptions of needs in briefing personnel who are expected to protect material using the APEX Special Access Control System. But the core concepts must be incorporated into the briefing.

The guide does not include specifics of the various APEX operational compartments, subcompartments, product compartments. Briefers must obtain this information from manuals and information disseminated by the APEX Program Managers and provide it on a need-to-know basis to the individual being briefed.

It is recognized that persons who have been indoctrinated into former compartmented intelligence programs will only require a minimum briefing to permit conversion to the APEX system. The briefing officer should adjust his briefing accordingly.

00 It is further recognized that there exist a number of
01 personnel currently on the periphery of the APEX system who
02 historically have been incorporated under an umbrella concept
03 of program compartmentation. The required tests for determina-
04 tion of what material may be afforded protection of the APEX
05 Special Access Control System may result in a determination
06 that some activities, and thus some personnel, are outside of
07 APEX compartmentation. The inclusion of material or activity,
08 and thus personnel associated with this material or activity
09 under APEX protection, does not mandate revelation of more in-
10 formation in the security briefing than is essential to do the
11 job and help the individual recognize what it is he/she is to
12 protect and how he/she is to accomplish this protection.

13
14 General Officers and other "VIPs" should be given specialized
15 briefings as their duties and responsibilities would not, for
16 example, require detailed knowledge of "in-status" transfer
17 procedures or how to wrap material for ARFCOS delivery. A
18 sample outline on this type of APEX briefing is included. Sim-
19 ilarly, a "Mini" Briefing is provided for those persons who re-
20 quire extremely limited knowledge about APEX. Both are examples
21 of the type of "tailored" briefings that should be developed
22 by briefers for types of persons routinely briefed into APEX.
23
24

00 APEX BRIEFING GUIDE OUTLINE

01
02 Introduction (presented at unclassified level):

- 03
04 -- General explanation of extreme sensitivity of the category of
05 APEX information for which the person is being given access.
06
07 --- Advisory that the person will be required to sign a contractual
08 "Nondisclosure Agreement" (NDA) as a condition of access to APEX
09 material. (Allow the person to read the NDA if applicable/asked.)
10
11 --- Highlight the NDA requirements for prepublication review and
12 cover other matters as detailed in the legal instructional
13 package on the NDA.
14
15 --- Allow the individual to express any reservations which he/she
16 may have concerning the NDA or access to APEX materials. (Such
17 reservations could, in some cases, result in terminating the
18 briefing at this point until issues are resolved.)
19
20

21 Substantive Briefing (classified according to content):

- 22
23 -- Discuss need for, purpose of, and structure of the APEX Special
24 Access Control System. (Use APEX Security Manual as source.)
25
26 --- Discuss the APEX "chain of command" (e. g., President, DCI,
27 APEX Steering Group/APEX Control Staff, Intelligence Com-
28 munity SIOs, appropriate APEX Security Officer(s) and APEX
29 Control Officer(s), etc, as required).
30
31 -- Provide explanation of the specific level of APEX access for
32 which the person will be authorized access (e. g., operational
33 compartment, subcompartment, product, APEX General Phase I/II).
34
35 --- Cover its relationship to other information information
36 processed by the US Government.
37
38 ---- Provide specific details of the APEX category(ies), as
39 appropriate to the person's duty assignment and as pro-
40 vided by the appropriate APEX Program Manager.
41
42 -- Show examples of the APEX material for which the person will be
43 authorized and which fall within his/her need-to-know (adjust if
44 APEX General Phase I access is involved). Ensure that differences
45 between the various APEX categories are known and recognized.
46
47 -- Explain the sensitivity of each APEX category for which the
48 person will have access.
49
50 --- Discuss the adverse effects on national security that could
51 result from unauthorized disclosure of APEX information.
52
53

- 00 -- Provide APEX administrative security requirements:
01
02 --- Access verification and certification.
03
04 --- Pre-publication review responsibilities and procedures.
05
06 --- SBI update requirement and personnel security reporting
07 responsibilities and procedures.
08
09 --- Review classification guides pertinent to the APEX ma-
10 terial to which the person will have access. (OPTIONAL)
11
12 --- Provide guidance on "portion marking" APEX material.
13
14 --- Meaning/purpose of colored APEX coversheets.
15
16 --- Inventory, certificate of destruction, and receipting
17 procedures.
18
19 --- "Two-person" rule.
20
21 --- Discuss individual responsibilities:
22
23 - No discussion of APEX information over non-secure
24 telephones or in areas that are not accredited as
25 an APEX Control Facility (ACF). Advise location of
26 secure phones and ACFs.
27
28 - Discuss administrative reporting requirements and pro-
29 cedures:
30
31 oo Unofficial foreign travel (DCID 1/20)
32
33 oo Security violations and incidents
34
35 oo Contacts with foreign nationals
36
37 oo Attempts by unauthorized persons to obtain APEX
38 information
39
40 oo Possible loss or compromise of APEX material
41
42 oo Personnel security concerns (i. e., excessive
43 drinking; illegal use of drugs; sudden, unexplained,
44 affluence, etc)
45
46 --- Discuss requirements and procedures for couriering APEX
47 materials
48
49 -- Discuss physical security requirements and procedures:
50
51 --- "Define" an APEX Control Facility (ACF).
52
53 --- Discuss levels of access held by ACFs and how to verify
54 such levels. Cover how to establish or expand an ACF
55 for all ACF/ASO security personnel).
56
57

00 --- Discuss general APEX physical security storage require-
01 ments and the specific storage and handling requirements
02 of the APEX material the person will have access.
03
04 --- Advise on how and where to report physical insecurities
05 relating to APEX storage or handling.
06
07 -- Local procedures for APEX-indoctrinated visitors.
08
09 -- "In-status" transfer procedures. (OPTIONAL)
10
11 -- The need for, and frequency of, APEX reinductions.
12
13 -- Responsibility and procedures for, and applicability of,
14 debriefs from APEX access.
15
16 -- Individual classification management responsibilities:
17
18 --- General provisions of Executive Order 12065 and depart-
19 mental or agency implementers.
20
21 --- General provisions of Information Security Oversight
22 Office (ISSO) Directive Number One.
23
24 --- Discussion of specific classification/compartmentation
25 guides associated with the APEX material to which the
26 person will have access. (Use Program Manager and other
27 classification guides as source.)
28
29 --- Classification challenges (rights and procedures).
30
31 --- Specific decompartmentation and/or sanitization guide-
32 lines associated with the APEX material to which the
33 person will have access. (Use Program Manager and other
34 guidelines as source.)
35
36 --- Classification assignment responsibilities.
37
38 -- Pre-existing Sensitive Compartmented Information (SCI):
39
40 --- Identify pre-existing SCI equating to the APEX material
41 to which the person will have access.
42
43 --- Advise general handling and storage procedures and
44 restrictions for such material.
45
46 --- Relationship of the material to APEX (e. g., sanitize or
47 decompartment if possible; if not, then "recontrol" as
48 APEX using applicable classification/decompartmentation
49 guides and threshold criteria).
50
51

00 --- Direct any questions to the appropriate APEX Security
01 or Control Officer, or alternates.
02
03 -- Techniques used by foreign intelligence organizations to
04 obtain classified information.
05
06 --- Reporting of attempts to obtain classified information.
07
08
09 Conclusion Briefing (presented at unclassified level):
10
11 -- Penalties for espionage and unauthorized disclosure.
12
13 -- Sanctions for violation or disregard of APEX security procedures.
14
15 -- Persons/offices to contact whenever there is a question or con-
16 cern regarding APEX security or procedures.
17
18 -- Signing of the APEX Nondisclosure Agreement (NDA).
19
20 -- Explanation of legal obligations (Use legal instructional
21 packet as source).
22
23

APEX "MINI" BRIEFING

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(Combining the needs to introduce people into APEX with the need to limit information to the essential level (i. e., persons to be given APEX General Phase I access and certain persons in industry), the following "Mini" Briefing can be used at the discretion of briefers who believe it will satisfy their requirements.)

-- The US Government, in the interest of tightenting security, has requested that all access approvals on Special Projects be reviewed. It has also instituted new security procedures and new forms which will make security accountability a great deal easier.

-- The only immediate concern to you is the signing of the new form. Your security concerns remain the same; there is no change in your status on the job. Keep on with what you are doing, report any security concerns to your Security Officer (by name) and continue to protect the information you have been given.

(General Officers and other "VIPs" should be given specialized briefings as their duties and responsibilities would not, for example, require detailed knowledge of "in-status" transfer procedures or how to wrap material for ARFCOS delivery. The following is an outline of this type of APEX briefing.)

Introduction (presented at unclassified level):

- General explanation of extreme sensitivity of the category of APEX information for which the person is being given access.
- Advisory that the person will be required to sign a contractual "Nondisclosure Agreement" (NDA) as a condition of access to APEX material. (Allow the person to read the NDA if applicable/asked.)
- Highlight the NDA requirements for prepublication review and cover other matters as detailed in the legal instructional package on the NDA.
- Allow the individual to express any reservations which he/she may have concerning the NDA or access to APEX materials. (Such reservations could, in some cases, result in terminating the briefing at this point until issues are resolved.)

Substantive Briefing (classified according to content):

- Abbreviated discussion of the need for, purpose of, and structure of the APEX Special Access Control System. (Use APEX Security Manual as source.)
- Highlights of key aspects of the specific level of APEX access for which the person will be authorized access (e. g., operational compartment, subcompartment, product, or other). (Use Program Manager manuals as source.)
- Office/person to contact for access verification and certification.
- Individual responsibilities:
 - No discussions of APEX information over non-secure telephones or in areas that are not accredited as an APEX Control Facility (ACF). Advise location of secure phones and ACFs.
 - Administrative reporting requirements and procedures:
 - Unofficial foreign travel (DCID 1/20)
 - Security violations and incidents
 - Contacts with foreign nationals
 - Attempts by unauthorized persons to obtain APEX information
 - Possible loss or compromise of APEX material

- 00 -- Pre-publication review requirements and procedures.
- 01
- 02 -- Requirements and procedures for couriering APEX material.
- 03
- 04 -- General classification, decompartmentation and sanitization
- 05 procedures and guidelines. (Use Program Manager manuals and
- 06 guides as source.)
- 07
- 08 --- Pre-existing SCI equating to APEX material to which the person
- 09 will have access.
- 10
- 11

12 Conclusion Briefing (presented at unclassified level):

- 13
- 14 -- Discussion, as required, of the penalties for espionage and
- 15 unauthorized disclosure.
- 16
- 17 -- Discussion, as required, of sanctions for violations or dis-
- 18 regard of APEX security procedures.
- 19
- 20 -- Persons/offices to contact whenever there is a question or
- 21 concern regarding APEX security or procedures.
- 22
- 23 -- Signing of the APEX Nondisclosure Agreement (NDA).
- 24
- 25 -- Explanation of legal obligations. (Use legal instructional
- 26 packet as source.)
- 27
- 28